

30 June 2017

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By email: ipsareview@rbnz.govt.nz

Dear Richard,

Submission on Issues Paper: Review of the Insurance (Prudential Supervision) Act 2010 (Issues Paper)

Thank you for the opportunity to submit on the Issues Paper dated March 2017.

Our submission is made on behalf Vero Insurance New Zealand Limited, Asteron Life Limited and Vero Liability Insurance Limited.

We are supportive of the Insurance (Prudential Supervision) Act supervisory regime and consider that it is working effectively. Below are our responses to specific questions in the Issues Paper. We have not included responses to questions for which we have no comments.

Part 2.1 Entities required to be licensed

Question 2: Do you consider that the Review should assess the current scope of IPSA in terms of the nature of insurance contracts or entities that are subject to the legislation? Please provide commentary in support of your view.

Yes. Policyholders in New Zealand should have appropriate regulatory protection regardless of where the insurer is based. This is becoming more relevant with the rapid advances in technology and the ability to acquire insurance through non-traditional means from non-traditional providers. We expect this trend to continue and it is important to maintain a level playing field across all entities that have policyholders in New Zealand.

Question 4: Are you aware of any currently non-licensed (under IPSA) insurance business activity in New Zealand that you consider should be within the scope of regulation in some form to enhance the effectiveness of the framework?

No. However, we consider it would be appropriate for the Reserve Bank to have the powers to designate products and services as contracts of insurance and/or insurer activity. This means that non-traditional products and services would be able to come within the IPSA framework and help ensure a level playing field. We note that similar designation powers are available under section 562 of the Financial Markets Conduct Act 2013.

While section 219 of IPSA prohibits the use of specific words in names and section 16 of IPSA restricts representations of being a “licensed insurer”, we submit that consideration should be given to extending this to a more general prohibition on activity and conduct by non-insurers representing themselves to customers as

insurers. It is important for customers to be fully aware of whether they are engaging with an insurer or non-insurer (regardless of name and licensing). We note that similar holding out prohibitions exist under sections 20A to 20C of the Financial Advisers Act.

Part 2.2 Overseas insurers

Question 5: Do you agree that overseas insurers provide valuable support to the New Zealand insurance market? Please provide commentary in support of your view.

Overseas insurers do provide support to the New Zealand insurance market, for example, capital support, reinsurance arrangements and expert knowledge. However, there is a risk that if the overseas insurer were to experience financial distress or insolvency that New Zealand policyholders may be disadvantaged in that they may have lower priority than the home country policyholders and limited recourse during the insolvency process.

Question 6: Do you consider that the Review should reassess the application of the legislation to insurers operating as branches? Please provide commentary in support of your view.

Yes. In the interests of New Zealand policyholders, we submit there is the opportunity to consider the requirement of local incorporation and locally held capital for overseas insurers. This would provide more protection and certainty for New Zealand policyholders should the insurer experience financial distress or insolvency as they would be subject to New Zealand regulation. For a branch operation, the home country laws and regulators could cause the insurer's capital to be used to the advantage of the home country operation, policyholders or creditors as is the case for Australian based insurers.

Further, directors of a New Zealand incorporated insurer would be required to comply with the directors' duty under the Companies Act and section 221 of IPSC to act in the best interests of the New Zealand company (as compared to a branch where the directors would be required to act in the best interests of the company as a whole even if it may be detrimental to the New Zealand operation).

We question whether there is a sufficiently level playing field in the absence of a requirement for local incorporation (as noted in paragraph 60 of the Issues Paper). If local incorporation is not mandatory, we submit that there should be a requirement for overseas insurers to have sufficient capital in New Zealand to help mitigate the above risks.

If local incorporation were mandatory, we do however consider an exception should be made for reinsurers. Reinsurers contract with insurers (as opposed to retail customers) who are well placed to assess and manage counter party risks. Given the comparatively small size internationally of the New Zealand insurance market, we consider it is critical that reinsurers are not discouraged from participating in the New Zealand market.

Question 7: In the context of overseas insurers, what do you consider are the most significant risks posed to the New Zealand economy or New Zealand policyholders that need to be taken into account?

Please see responses to Questions 5 and 6 above.

Part 2.3 Statutory funds

Question 8: Do you consider that there is opportunity to clarify or enhance the effectiveness of the statutory fund framework? Please provide commentary in support of your view.

Regarding paragraph 70 of the Issues Paper:

- The current arrangements have not given rise to any issues and, as is the intention of the legalisation, provide an effective level of protection for policyholders within the statutory fund. There currently exists an appropriate balance between providing protection for policyholders and administrative efficacy. Increasing administrative complexity will increase operational risk and the expense of running a statutory fund to the detriment of the policyholders within the fund.

- We do not consider it is necessary to introduce the requirement to separate the different types of life insurance. Further, Unit Linked and Traditional insurances have been in decline for several years with very few (if any) providers selling new policies of this nature.
- Expanding the scope of statutory funds to include some classes of non-life insurance would be a significant change which would incur substantial implementation costs for general insurers. We would want to understand further the reasons and parameters for this. In particular we need to understand what added protection a statutory fund would provide for these policyholders. The fact that a policyholder is subject to long term risk is not sufficient reason in itself to establish a statutory fund. We note that insurers that have long tail portfolios tend to have higher solvency ratios. It is important to also take into consideration the underlying risks of the products and the financial administration that currently applies to these products.

Question 9: In the context of overseas insurers, do you consider a statutory fund framework may help protect the interests of New Zealand policyholders? Please provide commentary in support of your view.

In absence of mandatory local incorporation, we consider a statutory fund framework may help protect the interests of New Zealand policyholders of overseas non-life insurers (whether as part of a New Zealand assets requirement or otherwise). Please see our response to Question 6 above.

Part 2.4 Role of key officers and key control functions

Question 10: Do you consider that the expectations placed on the directors, chief executive officer, chief financial officer or appointed actuary of insurers, would benefit from being considered further within the Review? This may include clarifications of current expectations or expansion of responsibilities.

We consider the current degree of flexibility is appropriate given the range of insurers that operate in the New Zealand market. If the Reserve Bank considers clarification of its expectations is needed, we submit that this could be done through issuing guidance rather than amending the legislation. We also believe that the Chief Risk Officer is a critical role beyond the financial focus of the Chief Financial Officer and the Appointed Actuary.

Part 2.6 Distress management

Question 13: Do you consider the distress management framework within IPSA could be considered within the Review to enhance the expected effectiveness of the framework, particularly for smaller licensed insurers?

We are supportive of the Reserve Bank having the ability to facilitate effective processes and outcomes in a distress management situation. We note that distress management powers have yet to be used in any substantive sense. We consider early intervention is important if the Reserve Bank has concerns about the long term viability of an insurer (such as relying on borrowing to support solvency) and the Reserve Bank should use its distress management powers in these situations.

Question 14: Are there any areas of the framework that may pose particular concerns when considering overseas insurers (branch operations)?

Please see our responses of Questions 5 and 6 above.

Part 2.7 Solvency requirements

Question 16: Do you consider that consideration should be given to clarifying the Reserve Bank's prudential response to deteriorations in reported solvency levels? Please provide commentary in support of your views.

Having greater certainty on the Reserve Bank's response to situations is always helpful. Regarding this particular matter, we question the extent to which such clarification could be given as the circumstances which give rise to an individual insurer's deterioration in, or breach of, solvency margin requirements would be unique and vary from case to case.

Part 2.8 Supervisory processes – regulatory approvals

Question 17: Do you consider the Review should reassess the current framework for approval of material transactions and policy changes? Please provide commentary in support of your view.

In our experience the current process works as needed. We support the Reserve Bank in taking a pragmatic and reasonable approach to ensure positive outcomes for a sound and efficient insurance sector. We welcome any additional guidance the Reserve Bank has based on its experience of approving changes of ownership and transfers of business.

Question 18: Do you consider that approval by the Reserve Bank is more or less effective than alternative mechanisms e.g. court based systems?

Please see our response to Question 17 above. We consider the current process is more cost effective and time efficient than a court based process.

Part 2.9 General disclosure and Financial Strength rating requirements

Question 19: Are there any aspects of the current disclosure requirements that you consider do not provide useful information or are unduly onerous or costly to prepare? Please provide commentary in support of your view.

We appreciate the importance of financial strength ratings and consider they should be required and should be disclosed. We submit that disclosure should be done by way of referring the customer to a website, free phone number and physical office address for the insurer and to the Reserve Bank website where the customer could obtain the current rating at any time. This will ensure the customer receives up to date and accurate information.

We do not consider that the financial strength rating needs to be disclosed to policy holders in writing before entering into or renewing a contract of insurance (as required by section 64 of IPISA). The reasons for this are:

- In our view, financial strength ratings are not the primary factor that customers consider when deciding on an insurance policy. Other important factors are the policy terms, premium amount, insurer reputation for claims management and payment and the advice given by the intermediary.
- There are significant costs incurred by a change in financial strength rating. Collateral must be re-printed and replaced through all distribution channels. Significant operational and systems costs also arise when a rating change occurs while an application for a new policy is in progress or during the renewal process. We estimate the costs (including internal time costs) of a change in financial strength rating to be a minimum of \$100,000. We consider the costs of requiring notification in writing to the policy holder outweigh the benefits of doing so.

Question 20: Do you consider that there is information that is not currently required to be disclosed that would be beneficial to market participants? Please provide commentary in support of your view.

No. It is important that customers are not at risk of being confused with excessive technical disclosures that they may not understand or consider necessary. This could result in customers either ignoring the disclosures entirely (due to the volume of information) or being distracted from information that is pertinent to their policy terms and decision making.

We also consider that the relatively small size of the New Zealand insurance market will be reflected in the number of market participants that are interested in any information disclosed (we expect that number would be comparatively small internationally) and therefore we consider it is important to ensure that the benefits of any disclosures are not outweighed by the costs of compliance.

Regarding paragraph 134 of the Issues Paper, we do not consider it necessary for disclosure requirements in the insurance industry to be consistent with disclosure requirements in the banking industry. The industries are significantly different in size and in risk posed to customers.

Question 21: Do you consider that the Reserve Bank (or other authority) has a role in providing appropriate industry data to the market? Please provide commentary in support of your view.

Yes, we consider the Reserve Bank does have a role in providing industry data particularly around the level of under insurance in New Zealand and the affordability of insurance (including the impact of government levies and taxes on affordability). Data that is already provided by the industry through other means should be factored in (for example, by the Insurance Council of New Zealand) to ensure there is not any unnecessary duplication.

Regarding information requests from the Reserve Bank, we consider it would be helpful if prior consultation is made with the industry to ensure that the information requested can be collected in an efficient manner, and that the information collected will be consistent and meaningful. We are conscious that insurers differ in the way they record and organise their data and therefore may differ in how they interpret any information request. Given the potential complexities of distilling the information to be provided, we consider it is also important that sufficient time is given to respond to a request. Again, prior consultation with industry would be helpful in this regard.

Question 24: Are there any further issues you would like to raise that you consider should be within scope of the Review? Please provide commentary in support of your view.

We consider it is important that there is a level playing field in the insurance sector in New Zealand, including between overseas insurers and New Zealand incorporated insurers. While it is not part of IPSA, we do note that section 9 of the Law Reform Act 1935 as it is currently applied means that overseas insurers and New Zealand insurers are not treated consistently. Section 9 places a statutory charge on insurance monies payable by a New Zealand insurer whereas this charge does not apply to overseas insurers. In practice, this means there are potentially differences between overseas insurers and New Zealand insurers in terms of who is paid claim monies (the insured, claimant of the insured or a liquidator), how much is paid and the costs in obtaining any payment (such as applying to relevant courts in relevant jurisdictions). We welcome any Reserve Bank comment on this issue in light of the IPSA principles including the desirability of consistency in the treatment of similar institutions.

Please let us know if you have any questions or require any further information. We are happy to discuss any matters in the Issues Paper and our submission.

Yours sincerely



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